

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

STEPHEN GILMORE and : No. 4:17-CV-01781-YK
KAREN GILMORE, h/w :
Plaintiffs, : JURY TRIAL DEMANDED
:
v. :
:
NEIL R. HOLLAND, M.D., :
RANDLE H. STORM, M.D., :
GEISINGER MEDICAL CENTER, :
GEISINGER CLINIC d/b/a :
GEISINGER MEDICAL GROUP, :
GEISINGER HEALTH SYSTEM :
FOUNDATION d/b/a GEISINGER :
HEALTH SYSTEM, :
JOHN DOES 1-10, :
JANE DOES 1-10, :
:
And :
:
ABC CORPORATION 1-10, :
Defendants. : (Honorable Yvette Kane)

MOTION TO APPROVE STIPULATION TO DISMISS CLAIMS
AGAINST DEFENDANT GEISINGER HEALTH SYSTEM FOUNDATION
d/b/a GEISINGER HEALTH SYSTEM,
WITH CONCURRENCE OF ALL PARTIES

AND NOW, comes Defendant, Geisinger Health System Foundation, d/b/a Geisinger Health System (“GHSF”), by its attorneys, Thomas, Thomas & Hafer, LLP, and files this Motion to Approve Stipulation to Dismiss Claims against

Defendant GHSF with Concurrence of all Parties, and seeks an Order of Court approving the Stipulation of the Parties to dismiss GHSF.

1. Pursuant to and for the reasons set forth in the Stipulation signed by all the parties and filed on December 4, 2017, attached hereto as Exhibit A, Plaintiffs have agreed to dismiss, without prejudice:

a. Plaintiffs' claim of vicarious liability for medical malpractice (Doc. 1, Count VIII);

b. Plaintiffs' claim for loss of consortium (Doc. 1, Count IX); and

c. Plaintiffs' claims of negligent infliction of emotional distress (Doc. 1, Count XI).

2. Pursuant to Local Rule 7.1, the undersigned has sought concurrence in the Stipulation to Dismiss and Motion to Approve Stipulation to Dismiss from each party, and counsel for each party concurs.

WHEREFORE, Defendant Geisinger Health System Foundation, d/b/a Geisinger Health System respectfully requests this Honorable Court enter the attached Order approving the Stipulation and dismissing without prejudice, all claims against GHSF set forth in the Complaint, and amending the caption of the case to reflect this dismissal.

Respectfully submitted,

THOMAS, THOMAS & HAFFER, LLP

By: /s/Sarah W. Arosell

Sarah W. Arosell, Esquire

PA 58797

Matthew Ridley, Esquire

PA 204265

305 North Front Street

P.O. Box 999

Harrisburg, PA 17108

Counsel for Defendants

Geisinger Medical Center, Geisinger Clinic

d/b/a Geisinger Medical Group, and

Geisinger Health System Foundation d/b/a

Geisinger Health System

Date: December 5, 2017

2864412.1

EXHIBIT A

IT IS HEREBY represented, warranted, stipulated and agreed by and between the undersigned, who are authorized to sign this Stipulation on behalf of their clients, that Plaintiffs voluntarily dismiss, without prejudice, the following

claims against Defendant Geisinger Health System Foundation d/b/a Geisinger Health System (“GHSF”) as set forth in Plaintiffs’ Complaint (Doc. 1):

1. Plaintiffs’ claim of vicarious liability for medical malpractice (Doc. 1, Count VIII);
2. Plaintiffs’ claim for loss of consortium (Doc. 1, Count IX); and
3. Plaintiffs’ claims of negligent infliction of emotional distress (Doc. 1, Count XI).

The undersigned further stipulate that dismissal of Geisinger Health System Foundation d/b/a Geisinger Health System is based upon the representation of its undersigned counsel that:

4. At the time of the allegations in Plaintiffs’ Complaint, GHSF was a non-profit corporation organized and operating under the laws of the Commonwealth of Pennsylvania with its principal place of business at 100 North Academy Avenue, Danville, Montour County, Pennsylvania 17822;

5. GHSF is not a licensed health care provider;

6. GHSF is not a health care provider as defined under the Medical Care and Reduction of Error Act (“MCARE”);

7. GHSF was not involved in the medical care and/or treatment of Plaintiff, Steven Gilmore which is the subject of this action;

8. GHSF did not employ any of the named physician Defendants and/or any other health care providers involved in the medical care and treatment of Plaintiff, Steven Gilmore;

9. GHSF did not direct or control the medical care and/or treatment provided to Plaintiff, Steven Gilmore;

10. Plaintiffs shall have the right to re-join Defendant Geisinger Health System Foundation d/b/a Geisinger Health System at any time up to and including 30 days following the end of discovery. The end of discovery shall be that date set by the applicable case management deadline or that date agreed upon by counsel, whichever is later;

11. The action shall continue as to all remaining defendants;

12. The case caption is hereby amended to omit reference to Geisinger Health System Foundation d/b/a Geisinger Health System as follows:

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STEPHEN GILMORE and	:	No. 4:17-CV-01781-YK
KAREN GILMORE, h/w	:	
Plaintiffs,	:	JURY TRIAL DEMANDED
	:	
v.	:	
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NEIL R. HOLLAND, M.D.,	:	
RANDLE H. STORM, M.D.,	:	
GEISINGER MEDICAL CENTER,	:	
GEISINGER CLINIC d/b/a	:	
GEISINGER MEDICAL GROUP,	:	

JOHN DOES 1-10,	:	
JANE DOES 1-10,	:	
	:	
And	:	
	:	
ABC CORPORATION 1-10,	:	
Defendants.	:	(Honorable Yvette Kane)

13. Counsel have been duly authorized by their respective clients to enter into this Stipulation;

14. This Stipulation may be executed in counterparts.

By: /s/James Hockenberry
Leon Aussprung, Esquire
PA I.D. No. 80183
James E. Hockenberry, Esquire
PA I.D. No. 91133
Law Office of Leon Aussprung, M.D., LLC
1429 Walnut Street, Ste. 300
Philadelphia, PA 19102
Counsel for Plaintiffs
Stephen Gilmore and Karen Gilmore

Date: December 4, 2017

By: /s/Donald B. Zaycosky
Donald B. Zaycosky, Esquire
PA I.D. No. 91821
Department of Legal Services
Geisinger System Services
100 North Academy Avenue
Danville, PA 17822-4031
Counsel for Defendant
Neil R. Holland, M.D.

Date: December 4, 2017

By: /s/ Kevin C. Cottone
Kevin C. Cottone, Esquire
PA I.D. No. 72775
WHITE AND WILLIAMS, LLP
1650 Market Street
One Liberty Place, Suite 1800
Philadelphia, PA 19103-7395
Counsel for Defendant
Randle H. Storm, M.D.

Date: December 4, 2017

By: /s/Sarah W. Arosell
Sarah W. Arosell, Esquire
PA I.D. No. 58797
1650 Market Street
One Liberty Place, Suite 1800
Philadelphia, PA 19103-7395
Counsel for Defendants
Geisinger Medical Center, Geisinger Clinic
d/b/a Geisinger Medical Group, and
Geisinger Health System Foundation d/b/a
Geisinger Health System

Date: December 4, 2017

CERTIFICATE OF SERVICE

I, Kathy L. Sitler, of the law firm of Thomas, Thomas & Hafer, LLP, hereby certify that I caused to be served a true and correct copy of the foregoing **Stipulation to Dismiss** was served electronically by the Court's Electronic Filing System on the following:

H. Leon Aussprung, Esq.
James E. Hockenberry, Esq.
Law Offices of Leon Aussprung, M.D., LLC
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Donald B. Zaycosky, Esquire
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Kevin C. Cottone, Esquire
White and Williams, LLP
1650 Market Street
One Liberty Place, Suite 1800
Philadelphia, PA 19103-7395
cottonek@whiteandwilliams.com

And by placing a copy of same in the United States mail, first class, postage prepaid, to the following:

John Does 1-10
c/o Geisinger Medical Center
100 North Academy Avenue
Danville, PA 17822

Jane Does 1-10
c/o Geisinger Medical Center
100 North Academy Avenue
Danville, PA 17822

ABC Corporation 1-10
c/o Geisinger Medical Center
100 North Academy Avenue
Danville, PA 17822


Kathy L. Sitler

DATE: December 4, 2017

2858528.1

CERTIFICATE OF SERVICE

I, Kathy L. Sitler, of the law firm of Thomas, Thomas & Hafer, LLP, hereby certify that I caused to be served a true and correct copy of the foregoing **Motion to Approve Stipulation to Dismiss and proposed Order** were served electronically by the Court's Electronic Filing System on the following:

H. Leon Aussprung, Esq.
James E. Hockenberry, Esq.
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100 North Academy Avenue
Danville, PA 17822


Kathy L. Sittler

DATE: December 5, 2017